

Earned Recognition

August 2016

Memorandum of Understanding Between:

**The Food Standards Agency
and the
Livestock & Meat Commission**



This Memorandum of Understanding (MOU) is between the following parties:

- a) The Food Standards Agency (FSA) of Aviation House, 125 Kingsway, London, WC2B 6NH.
- b) The Livestock & Meat Commission for Northern Ireland, Lissue House, 31 Ballinderry Road, Lisburn, BT28 2SL.

1. Purpose

This MOU seeks to set out the general principles of collaboration, cooperation, roles and responsibilities that support the earned recognition process involving the FSA and the NIBL FQAS.

This MOU provides a specific framework for the delivery of earned recognition for compliant businesses that are members of NIBL FQAS in relation to the delivery of official controls for feed, and food hygiene in the context of primary production.

2. Background to Earned Recognition

Feed and food businesses are responsible for ensuring that the production and use of feed and food satisfies the requirements of the law. The FSA acknowledges that the application of official controls relating to feed and food safety should recognise those businesses that comply with legislative requirements whilst offering necessary safeguards against unacceptable risk to consumers, through the application of appropriate enforcement action to remedy deliberate, persistent or serious non-compliance.

Earned recognition will be available to those businesses who are compliant members of an industry assurance scheme recognised by the FSA.

Approved status can be obtained by the demonstration of the scheme's compliance with FSA Criteria for Earned Recognition, (**Annex A**). This process examines four key areas: governance of the scheme, scheme standards, certification and monitoring / review processes. Where such a scheme is approved, compliant members of the scheme will benefit from a reduced frequency of inspection on the basis that they are taking positive action to reduce risks and comply with legislative requirements, verified through a third party certification process. The application of earned recognition recognises compliance and allows Department of Agriculture, Environment and Rural Affairs (DAERA) to focus on less compliant businesses.

3. Overview of the Parties Concerned

Food Standards Agency

The FSA is a non-Ministerial government department responsible for food and feed safety and hygiene in England, Wales and Northern Ireland. The FSA is the Central Competent Authority responsible for ensuring the delivery of official feed and food controls in England, Wales and Northern Ireland. Food and Feed Law in Scotland is the responsibility of Food Standards Scotland. The FSA works through its headquarters in London and offices in York, Belfast, and Cardiff.

Official controls on primary production are delivered by a range of enforcement authorities in the UK. In Northern Ireland these controls are carried out by the DAERA, on behalf of the FSA, whereas in GB, the FSA and local authority environmental health and trading standards departments are responsible.

Northern Ireland Beef & Lamb Farm Quality Assurance Scheme

The Northern Ireland Beef & Lamb Farm Quality Assurance Scheme (NIBL FQAS) is a farm assurance scheme owned by the Livestock and Meat Commission (LMC) on behalf of the beef and sheep meat industry in Northern Ireland and which covers production standards with three key pillars: Food Safety, Animal Welfare and Care for the Environment. The FQAS or the Red Tractor logo can be applied to products to show that businesses in the supply chain have met the FQAS product standard and rules and that products are fully traceable back to independently inspected farms.

The NIBL FQAS administrative costs are met by producer participation fees and throughput fees per bovine/ovine animal slaughtered from processors. The scheme is owned by LMC on behalf of the beef and sheep meat industry. It is operated by an independent third party UKAS accredited Certification Body contracted by LMC. This ensures that no single organisation in the food chain has undue influence.

The scheme is represented by all areas of the industry – members of UFU, NIMEA, NBA, NSA, NIAPA, DAERA and LMC all form part of the FQAS Industry Board and Standard Setting Committee.

LMC facilitates a FQAS Standard Setting Committee which sets and amends the standards for NIBL FQAS to reflect the quality of production, animal health and animal welfare that is valued by customers and consumers of Northern Ireland Farm Quality Assured beef and lamb. The Scheme has been designed to provide assurances that Northern Ireland Farm Quality Assured beef and lamb is produced in accordance with a specified Product Standard which goes beyond the relevant legislation and best commercial practice. The Standard Setting Committee is comprised of industry representatives from the beef and sheep production and processing sectors.

Within the Northern Ireland agricultural sector the NIBL FQAS has approximately 12,000 participants. To become a member of the scheme, farmers must comply

with assurance scheme standards and rules, which are independently verified by the appointed Certification Body every 18 months. On an annual basis, 5% of participating farms are spot checked.

4. FSA Roles and Responsibilities

The FSA is responsible for approving a scheme for earned recognition. The FSA will assess the scheme against 'Criteria for Earned Recognition' (see **Annex A**). The FSA will work with LMC to document compliance with FSA requirements and where necessary discuss how the scheme could be improved to meet these requirements. The four key areas of assessment focus on:

- governance,
- scheme standards
- the certification process
- monitoring / review processes

When the FSA is satisfied that the LMC scheme meets the approval criteria for earned recognition, the FSA will approve the scheme for earned recognition and DAERA will be informed of the arrangements for earned recognition applicable to the sector concerned. To ensure continuing compliance and confidence to approve the scheme for earned recognition, the FSA will be responsible for verifying compliance with FSA 'Criteria for Earned Recognition'. Positive verification will enable the FSA to have continued confidence in the assurance scheme and the FSA's ability to justify approved scheme status.

Should an assurance scheme fail to meet FSA approval criteria, the FSA will take steps to remove approved status.

Key responsibilities include:

- evaluating evidence supplied by the assurance scheme to determine whether it meets 'Criteria for Earned Recognition'.
- administration of the MOU with the parties concerned to formally agree approved status, roles and responsibilities;
- organisation of meetings and exchange of management data with the assurance scheme in line with **Annex B** and **Annex C**.
- ensuring enforcement authorities are provided with information to identify businesses that qualify for earned recognition through membership of the approved scheme and the frequency that inspections will be carried out;
- working with enforcement authorities to ensure a sample group of businesses that qualify for earned recognition are inspected by the enforcing authority and any adverse findings are reported to the FSA;

- working with the LMC to improve the earned recognition process where necessary;
- ensuring information supplied by the assurance scheme as confidential, is retained as confidential information and any restrictions placed upon it are observed;
- working with other government departments to promote where possible a joint approach to earned recognition;
- FSA adherence to all statutory requirements and best practice (including any relevant Governmental protocols such as the Ministerial and Civil Service Codes and the Security Policy Framework <http://www.cabinetoffice.gov.uk/resource-library/security-policy-framework>). Compliance with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation;
- notifying LMC where enforcement action relating to scheme members results in prosecution; and
- working together with LMC to promote and support the earned recognition process and, subject to legislative restrictions, share information that supports this process.

The FSA acknowledge there will be occasions when specific information, including personal information about members of the schemes, needs to be shared between each other.

When this is in relation to food safety matters that can affect public health the information exchange will be treated as a disclosure under Section 29 of the DPA (prevention or detection of crime/ capture or prosecution of offenders).

When this is in relation to other matters, for example where information on new members of the scheme is provided, the reason for processing the information that would apply under the Data Protection Act is that the information is necessary for administering justice, or for exercising statutory, governmental, or other public functions;

The reliance on using this exemption and reason to release specific food safety information is to be reviewed annually to ensure it remains applicable in all circumstances. Additionally, the FSA is able to disclose the data it holds under The Food Standards Act 1999 Section 19.

5. LMC Assurance Roles and Responsibilities

The primary functions of LMC in relation to earned recognition are to:

- ensure the approved scheme remains compliant with the Criteria for Earned Recognition as set out in **Annex A**;
- notify the FSA of any proposed change to the operation and management of the approved scheme that impacts on any of the criteria detailed in **Annex A**;
- provide and update the FSA with details relating to the certification bodies engaged to carry out scheme assessments;
- work with the FSA to continually improve the earned recognition process;
- ensure management data is provided to support the earned recognition process, as specified in **Annex B** and **Annex C**.
- support the process of meetings with the FSA as detailed in **Annex B**;
- ensure information supplied by the FSA as confidential, is retained as confidential information and any restrictions placed upon it are observed;
- ensure the FSA and appropriate competent authorities are notified immediately a scheme auditor becomes aware of a serious threat to public health or animal health or any situation where animal welfare or the environment is compromised; LMC to provide identified officials with the specific detail of non-compliance including name, address and inspection report to facilitate any remedial action and enforcement.

6. General Principles of Collaboration between FSA and LMC

The FSA and LMC agree to adopt the following principles of implementation of this MOU:

- to share information, experience and skills in order to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- to act in a timely manner;
- to coordinate external communications in relation to earned recognition;
- to ensure sufficient and appropriate resources and systems are put in place to fulfil the responsibilities set out in this MOU; and
- to act in good faith and to support the purpose and objectives of the MOU.

7. Governance

The FSA and LMC are jointly responsible for the development and support of governance systems as detailed in **Annex B**, **Annex D** and **Annex E**.

If there is any dispute arising out of or in connection with this MOU, the concerned individuals shall try to settle it amicably in the first instance. In the event resolution is not reached, the dispute shall be referred to the Chief Executives or nominated person responsible for each party.

The MOU is a voluntary arrangement; however, each party should provide 6 months' notice in writing of their intention to withdraw from the MOU.

This MOU shall commence on the date it is agreed and, unless terminated, shall continue in force subject to annual review.

8. Application of this MOU

In relation to the enforcement of legislation identified in **Annex D** and **Annex E**, this MOU will extend to Northern Ireland.

Memorandum of Understanding between the Food Standards Agency and LMC in relation to Earned Recognition for food and feed.


The Food Standards Agency agrees and accepts the roles and responsibilities and principles as detailed in this MOU in relation to the approved assurance scheme operated by LMC.

Name: Gerard Smyth **Position:** Senior Policy Officer

Signed:  **Date:** 24 August 2016

LMC agrees and accepts the roles and responsibilities and principles as detailed in this MOU in relation to working with the FSA in relation to attaining approved status for its scheme.

Name: Ian Stevenson **Position:** Chief Executive

Signed:  **Date:** 24 August 2016

Annex A

Criteria for Earned Recognition

1.0 Standard Setting

1.1 The industry scheme and standards should cover applicable legislative requirements for the sector it covers, and include the following aspects of governance surrounding the establishment and setting of standards:

- Governance: The role and governance of the standard setting committee should be clearly defined within the scheme and include representatives of all relevant stakeholders;
- Standards: There should be clearly defined processes for developing standards, with access to expertise and experience in relation to the sector to which the standards relates;
- Legislation: Processes should be in place to ensure standards are reviewed and developed in line with legislative changes; and,
- Risk based: A risk based approach to standard setting should be used drawing upon HACCP or an equivalent risk assessment process that identifies safety hazards and controls.

2.0 Compliance and Certification

2.1 The industry schemes should clearly describe compliance as well as processes for assessment and review, in particular:

- Compliance: The scheme should provide guidance on interpretation and assessment of compliance and how non-conformities with standards are dealt with;
- Review: Systems should be in place to monitor and adjust scheme requirements to ensure they achieve acceptable standards of compliance; and,
- Assessment: The scheme should have appropriate mechanism for the development and review of inspection criteria, with the ability of relevant stakeholders, including central competent authorities, to contribute to this process.

2.2 The industry scheme must have the following processes/criteria in place for its certification bodies:

- UKAS accreditation or equivalent having ISO17065 accreditation;
- A quality management system, including clearly defined management structure, processes for monitoring audits and the objective collection and recording of evidence as part of the certification process;
- A certification process that is reviewed at least annually to ensure it is operating effectively and in accordance with the requirements of the assurance scheme;

- A process to ensure non-conformances are tracked, closed off or otherwise addressed subject to the schemes requirements;
- A process to monitor the competence/performance of assessor;
- A process to ensure those responsible for certification are kept up to date with developments in standards and guidance for interpretation of standards; and
- A certification decision making process that is clear, transparent, proportional, consistent and documented.

3.0 Assessment Process

3.1 The industry scheme will need to demonstrate the following:

- The assessment process must be underpinned with guidance that deals with the assessment of standards and how non-conformities are dealt with in relation to the risk posed by non-compliance. Guidance should include procedures for dealing with repeat non-conformities, failure to rectify non-conformities and situations when certification should be withheld or suspended and circumstances in which it might be reinstated. In addition the guidance must include verification of corrective action;
- The assessment must be carried out by assessors who are impartial, competent and maintain relevant sector knowledge;
- Frequency of assessments must be no less than the minimum set by legislation for the sector covered by the assurance scheme, risk based and take into account previous history;
- Assessment must review all the standards set by the scheme applicable to the business and as a minimum must include a visual inspection of the site, observation of operations and examination of records;
- Comprehensive records of assessment findings should be maintained. (Date, name of assessor, scope of assessment, non-conformities, timescales for rectification etc.); and
- Where possible assessments should be unannounced or at short notice.

4.0 Assessor Authorisation/Competence

4.1 The industry scheme should have defined the following and have systems in place to ensure the certification body has:

- Criteria for appointing and authorising assessors including reference to professional qualifications, auditing skills, relevant experience and arrangements for ensuring on-going competency; and
- Induction and continued learning to enable assessors to demonstrate a clear understanding of scheme requirements and procedures, guidance for interpretation of standards and how non-conformities are dealt with.

5.0 Standard Mapping

- 5.1 Scheme standards will need to encompass legislation applicable to the sector the scheme identifies with. The FSA will work with the assurance scheme to ensure applicable legislation is identified.
- 5.2 If the FSA identifies that the scheme fails to cover any of the relevant legislative measures, the assurance scheme will be notified and invited to amend the scheme.
- 5.3 Legislation against which standards will be assessed is detailed in **Annex D** and **Annex E**.

6.0 Data Sharing and Communications

- 6.1 The industry scheme must be in a position to ensure that:
 - Information is made available to the FSA and the enforcement authority about membership of the scheme (new members/members that leave or are suspended from the scheme) and such data are kept up to date;
 - Processes are in place to ensure the FSA and the enforcement authority are informed quickly or have access to up to date information about members that are suspended from the scheme and,
 - Processes are established to ensure that the FSA and the enforcement authority are informed immediately if an immediate threat to public health, animal health, welfare or the environment is identified due to the activities covered by this MOU.
- 6.2 The industry scheme must be in a position to agree the following with the FSA
 - The review of planned and actual assessments;
 - The review of high level non-conformance/compliance data, rectification timescales;
 - The establishment of effective communications, between the assurance scheme, the FSA and enforcement authorities;
 - The FSA are notified of changes to the scheme with particular reference to standards that reflect legislative requirements;
 - The review of criteria that lead to earned recognition being approved for the scheme;
 - Key contact details;
 - The frequency of meetings with the FSA to discuss the operation of the scheme; and
 - It will enter into a memorandum of understanding to support the earned recognition process with the FSA.

Annex B
FSA and LMC Governance of Earned Recognition

Meeting	Activities	Inputs	Outputs	Attendees
Annual	Senior officials to review the evidence to justify continued support for earned recognition	FSA report including governance and performance information e.g. evidence of compliance with key requirements, results of monitoring, data management as set out in Annex A and Annex C Agenda / notes of annual meetings with LMC.	Decision concerning the continuing justification for approved scheme status. Notes of meetings Letter of confirmation of outcome to LMC	Review lead taken by the FSA.
Annual	Review of approved scheme against the FSA Criteria for Earned Recognition and principles of the MOU	Management data as set out in Annex A and Annex C supplied by LMC and FSA Review any changes to legislation to ensure that those changes have been incorporated into (or will be incorporated into) the scheme's standards.	Evidence collected to support continued justification of earned recognition Notes of meetings Report to senior officials	Review lead taken by the FSA Nominated resource from LMC

Meeting	Activities	Inputs	Outputs	Attendees
<p>Quarterly (By teleconference) <i>Quarterly meetings in year 1 progressing to annual meetings in subsequent years.</i></p>	<p>Review of specific criteria in relation to the approved scheme, to verify:</p> <ul style="list-style-type: none"> • Confidence in the audit process; • Ability of the scheme to deliver the audit process; • Confidence in compliance with standards; • Confidence in data sharing; and • Non-compliance information 	<p>Management data as set out in Annex A and Annex C supplied by LMC and FSA</p>	<p>Notes of meetings</p>	<p>Review lead taken by the FSA Nominated resource from LMC</p>

Annex C
Data management

Management data	FSA/LMC	Enforcing Authority
Membership of schemes		
The identification of members of the scheme indicating when the member was assessed	Available on request	
The identification of members that leave, join or are suspended from the scheme.		DAERA - Electronic access to LMC data via APHIS
Total number of estimated unique members	Annual basis reported to the FSA by LMC. (Available on a monthly basis via LMC website)	
Management of the assessment programme/process		
Completion of the assessment schedule – assessments completed / overdue	Annual basis reported to the FSA by LMC (Available on a monthly basis via LMC website)	
Training of auditors	Annual basis reported to the FSA by LMC	
Number of witness audits carried out by the certification body and outcome	Annual basis reported to the FSA by LMC	
Results of verification arrangements for monitors auditors		
Confirmation that Certification Bodies are UKAS certified or equivalent.	Annual basis reported to the FSA by LMC. (Available on UKAS website)	
Performance of scheme members		
Levels of compliance by scheme – number of non-compliances against identified standards, including: - – Identification of the most frequent non-compliances Levels of compliance identified against standards categorised as key to public health	Annual basis reported to the FSA by LMC.	

Management data	FSA/LMC	Enforcing Authority
Number of members suspended and reason	Annual basis reported to the FSA by LMC	
Number of withdrawals by scheme and the reasons	Annual basis reported to the FSA by LMC	
Number of businesses with outstanding rectification work over the defined timescale (for minor non-conformances)	Annual basis reported to the FSA by LMC	
Confirmation that members have been suspended in line with scheme timescales (for major non-conformances)	Annual basis reported to the FSA by LMC	
Number of unannounced audits carried out by the certification body, results, problems and rectification plan	Annual basis reported to the FSA by LMC	
Results of DAERA inspections of scheme members	Annual basis reported to the LMC by FSA	

Annex D

Earned Recognition for Feed Hygiene: Review Periods and Key Contacts

Earned recognition is provided in relation to feed hygiene and the enforcement of the following European legislation by local authorities in England and Wales and DAERA in Northern Ireland:

- EC Regulation 183/2005 on Feed Hygiene (including Commission Regulation 225/2012 on feed oils and fats);
- EC Regulation 767/2009 on the Marketing and Use of Feed;
- EC Regulation 1831/2003 on Feed Additives;
- EC Directive 2002/32 on Undesirable Substances in Animal Feed¹;
- EC Regulation 1829/2003 on Genetically Modified Food and Feed; and
- EC Regulation 178/2002 on the principles of feed and food law.

Agreement Manager and Co-ordinator

Principal Agreement Manager:

FSA – Northern Ireland: Head of Operational Policy and Delivery

Data Management

As per **Annex C**

¹ As implemented by the Animal Feed Regulations 2010.

Annex E

Food Hygiene Primary Production

Earned recognition is provided in relation to feed hygiene and the enforcement of the following European Legislation by DAERA in Northern Ireland.

Applicable European Legislation:

- Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare (as amended)
- Regulation (EC) No 178/2002, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (as amended)
- Regulation (EC) No 852/2004 on the hygiene of foodstuffs (as amended)
- Regulation (EC) No 853/2004, laying down specific hygiene rules for food of animal origin (as amended)
- Regulation (EC) No 854/2004, laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (as amended)

Agreement Manager and Co-ordinator

Principal Agreement Manager:

FSA – Northern Ireland: Head of Operational Policy and Delivery

Data Management

As per **Annex C**

Annex F

Assurances schemes recognised under this MOU as qualifying for earned recognition

This MOU recognises the following Livestock & Meat Commission scheme for earned recognition as detailed below:

- The Northern Ireland Beef & Lamb Farm Quality Assurance Scheme (NIBL FQAS)